# ARTICLE 12 ENFORCEMENT, VIOLATIONS AND PENALTIES

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#### DIVISION 1 **GENERAL PROVISIONS**

- **Section 12-101 Enforcement Authority.** Provisions of these Regulations shall be enforced by the Board of County Commissioners and the County Attorney through their authority granted by Colorado law.
- **Subdivision.** The Subdivision and Subdivision Exemption regulations of this Code, set forth in Article 5, Division of Land, shall be enforced in accordance with remedies specified under 30-28-110, C.R.S. and 30-28-137, C.R.S.
- B. **PUD.** The Planned Unit Development regulations of this Code, set forth in Article 6, Planned Unit Development, shall be enforced in accordance with C.R.S. 24-67-101, et seq., the Planned Unit Development Act, in addition to applicable zoning and subdivision regulation remedies.
- Rubbish, Junk, Weeds and Brush, and Unsafe Structures. The provisions regulating rubbish, junk, weeds and brush, and unsafe structures, set forth in Article 15, Rubbish, Junk, Weeds and Brush, and Unsafe Structures shall be enforced in accordance with the provisions set forth in that Article.
- D. Other. All other provisions shall be enforced as a violation of zoning regulations in accordance with 30-28-124, C.R.S. and 30-28-124.5, C.R.S.
- **Section 12-102** Unlawful to Violate These Land Use Regulations. It shall be unlawful to develop or use any building, structure, or land in unincorporated [County] in violation of this Land Use Code.

#### **Section 12-103** Remedies.

- Withholding Building Permits. The County shall not issue any building permit unless the proposed erection, construction, reconstruction, alteration or use fully conforms to all provisions of this Code and complies with all other state and local regulations.
- B. Withholding Land Use Change Permits. The County may withdraw or deny land use change permits, including plat approvals, and any other applicable permits issued under this Code, on any land for which a notice of violation has been issued and the violation has not been corrected in a timely manner. The County may require correction of the violation as a condition of any future approvals.

- **C.** Cease and Desist Orders. After notice of a violation and an opportunity to correct the violation, the County may halt work on any land where there is a violation of a provision of this Code or of a permit issued hereunder, through issuance of a cease and desist order. All work shall immediately halt upon issuance of such order. If work continues the unlawful erection, construction, reconstruction, alteration, maintenance or use shall be in violation of this Code.
- **D. Injunction.** If any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, maintained or used in violation of the provisions of this Code, the Board or the County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.
- **E. Specific Performance.** The County may seek specific performance of the terms or conditions of any agreement or permit issued under this Code.
- **F.** Judicial Action. At the request of the Board of County Commissioners, the County Attorney shall be empowered to bring either a civil or a criminal (or both) action against the owner of any premises or property on which a violation of this Code is alleged and, following investigation, has been confirmed or is reasonably believed to exist.
  - 1. Civil Remedy. Civil remedies against violations of this code may include injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate, or remove the violation. Fines assessed pursuant to these enforcement provisions may be recovered in that same civil action wherein such injunction, mandamus and/or abatement is sought, or separate and district proceedings may be instituted seeking varying forms of relief, as may be allowed by law.
  - 2. Criminal Remedy. Criminal violations of this Code shall be punished by a fine in an amount not to exceed one hundred dollars (\$100.00) for each violation or by imprisonment in the County jail for not more than ten (10) days, or by both a fine and imprisonment, and payment of all costs and expenses involved in prosecuting the offense, or by such other remedy as may be specified by law. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.

**G.** Cumulative Remedies. All remedies provided for in this section are cumulative, are not exclusive, and shall be in addition to any other remedies provided by law. To the extent that Colorado law may limit the availability of a particular remedy for a particular violation or a part of a violation, such remedy shall remain available for other violations of other parts of the same violation, and all other remedies shall remain available for the same violations or part of a violation.

### DIVISION 2 ENFORCEMENT PROCESS

**Section 12-201 Complaint and Verification of Violation.** Upon complaint made or filed by a member of the public or by a County official or employee, the [*Administrator/Director*] shall verify the complaint as a violation of this Code.

## Section 12-202 Authority to Enter and Inspect.

- **A. Director Authorized to Inspect.** The [Administrator/Director] is empowered to inspect and examine any building, other structure, or parcel or other area of land where there is reasonable cause to believe that a use exists or construction, reconstruction, alteration, or maintenance is being performed or has been performed in violation of this Land Use Code.
- B. Consent to Enter or Administrative Entry and Seizure Warrant Not Required. Consent to enter or an administrative entry and seizure warrant shall not be required in the following circumstances.
  - 1. To conduct inspections during regular county business hours.
  - 2. To conduct inspections within the scope of another official document.
  - 3. To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy.
  - 4. In emergency situations in which the Director has reason to believe that the public health or safety is in imminent danger and could be jeopardized by delay.

# C. Administrative Entry and Seizure Warrant

- 1. Requirements to Issue Warrant. The following documents shall be required for the court to issue an administrative entry and seizure warrant.
  - **a.** The applicable regulatory provisions of this Code.
  - **b.** An affidavit stating the factual basis for the warrant.
  - **c.** Evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time.
  - **d.** A general description of the location of the subject property.
  - **e.** A general description of the violation.
  - f. The proposed method and extent of abatement by the County, including proposed disposal or temporary impoundment of property.

**Section 12-203 Notice of Violation and Response.** If a violation exists, the County shall send written notice of a violation of the Land Use Code to the property owner of record, as identified on the County tax records.

# A. Notice Requirements.

- 1. **Service by Mail.** The notice shall be sent by certified mail, return receipt, to both the address in the tax records and the property address, if different.
- **2. Content of Notice.** The notice of violation shall contain the following information.
  - **a.** A list and description of all violations with references to the section or sections of the Code violated.
  - **b.** An order requiring correction of the violation(s).
  - **c.** The date by which compliance shall be attained.
  - **d.** The appeal process, if applicable for the violation(s).

- **B.** Response. Unless otherwise provided by these Regulations, a period of thirty (30) calendar days after the date of notice shall be allowed for response to a notice of violation:
  - The alleged violator shall respond by providing evidence satisfactory to the [<u>Administrator/Director</u>] to show that the determination is in error; or
  - 2. The alleged violator shall restore the site, structure or use of the property to compliance. An inspection by the County shall be required to confirm compliance; or
  - 3. The alleged violator shall obtain approval from the County for an extension of time to attain compliance, showing good cause for extension, with such extension limited to sixty (60) days unless a longer period is approved due to extenuating circumstances ending with an inspection of the property by the County to confirm compliance.

# Section 12-204 Abatement by the County.

- **A.** Authorization for Abatement by County. If the alleged violator fails to comply with the County's requirements for abatement of the violation, the [<u>Administrator/Director</u>] may request that the Board, at a public meeting, authorize the County to arrange for abatement of the violation. [NOTE: Public hearing is not required]
  - 1. **Notice of Meeting.** At least fourteen (14) calendar days prior to the date of the meeting, the [<u>Administrator/Director</u>] shall provide notice of the meeting to the alleged violator by certified mail, return receipt requested to both the address in the tax records and the property address, if different.
- **B.** Execution of Warrant and Abatement of Violation. Upon authorization by the Board of County Commissioners for abatement by the County, the [*Administrator/Director*] shall seek an administrative entry and seizure warrant from the County Court or District Court having jurisdiction over the subject property.
  - 1. Within ten (10) calendar days following the date of issuance of an administrative warrant the County shall abate the violation in

- accordance with the direction of the court. A copy of the issued warrant shall be provided to the property owner. Proof of the execution of the warrant, including a written inventory of any property impounded by the County, shall be submitted to the court.
- 2. The proposed method of abatement by the County may be accomplished through the use of County staff or by contract with a private party.
- C. Cost of Abatement Billed to Property Owner. A bill for the reasonable costs of abatement plus an inspection fee of five (5) percent of that cost shall be mailed to the property owner of record, at both the address in the tax records and the property address, if different. Payment of the bill shall be due within sixty (60) days of the date of the bill.
- **D.** Collection of Unpaid Bill for Cost of Abatement by County. If the bill is unpaid after sixty (60) calendar days, the [<u>Administrator/Director</u>] through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment together with a ten (10) percent penalty for the cost of collection, in the same manner as other taxes are collected.

# Section 12-205 Enforcement of Subdivision Regulations

- A. Requirement for County Subdivision Approval
  - 1. Approval in Compliance with Code Required for Recording. No plans, plats, plots and replats of land laid out in subdivision or building lots or of the streets, highways or alleys, or other portions thereof, intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be recorded in any public office unless first approved in compliance with this Code.
    - 2. Criminal Remedy, Transfer or Sale Prior to Final Plat Approval and Recording. Any subdivider or agent of a subdivider who transfers or sells land before the final plat has been approved pursuant to this Code and recorded or filed in the Office of County Clerk and Recorder shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1000.00) nor less than five hundred dollars (\$500.00) for each parcel or interest in subdivided land which is sold or offered for sale. All fines collected shall be credited to the General Fund of the County. (Section 30-28-110(4)(a)), C.R.S.)

- 3. Action to Enjoin. The Board shall have the power to bring an action to enjoin any subdivider from selling proposed subdivided land before the final plat has been approved by the Board and filed for recording in the Office of the County Clerk and Recorder. (Section 30-28-110(4)(b)), C.R.S.)
- 4. **Permits Withheld.** In addition to any other enforcement action specified in this Code, the Director is authorized to withhold or demand withholding the issuance of any permits under this Code sought or requested for property which is determined to have been divided without the required County approval. (Section 30-28-110(4)(a)), C.R.S.)
- 5. Conformance with Code Required. Properties that were divided in violation of the County's land use regulations in effect at the time of such division shall be further subdivided only if the proposal includes provisions which bring the entire original parcel, including the area previously divided in violation of County regulations, into compliance with the provisions of this Code.
- B. Enforcement of Subdivision Process and Platting Requirements.
  - 1. Authority to Compel Enforcement. The Board or the purchaser of any lot or other subdivided land subject to a plat restriction which is the security portion of an Improvements Agreement shall have the authority to bring an action in district court to compel enforcement of the Improvements Agreement on the sale, conveyance, or transfer of any such subdivided land, or enforcement of other applicable provisions for subdivision of land under Colorado law. Such authority shall include the right to compel rescission of sale, conveyance, or transfer of title of any lot or other subdivided land contrary to the restrictions set forth on the plat or in any separate recorded instrument. Any such action shall be commenced prior to issuance of a building permit by the County or otherwise prior to commencement of construction on any such lot or other subdivided land. (Section 30-28-137(3)), C.R.S.)
  - 2. Authority to Bring Action for Injunctive Relief. In addition to any other remedy provided by Colorado law, the Board or the purchaser of any lot or other subdivided land shall have the authority to bring an action for injunctive relief to enforce any plat restriction (including all obligations contained in documents required to be executed and recorded as part of the Final Plat approval and all

commitments of record of the subdivider related to the County's approval of the Final Plat), plat note, plat map, or provision of a subdivision improvements agreement, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, or provision of a subdivision improvements agreement pursuant to Section 30-28-137, C.R.S.

**Section 12-206 Acceleration of Enforcement Process to Protect Public Health, Safety and the Environment.** The enforcement process set forth in this Division may be accelerated if the [County Public Health Officer or Chief Building Official or Administrator/Director] makes a written finding that the public health, safety, welfare, or the environment could be endangered by a continuing violation. After such finding is made, the County Attorney shall take immediate action to end the threat to the public health, safety, welfare, or the environment through, but not limited to, ex-parte restraining orders as authorized under the Colorado Rules of Civil Procedure and/or action by local law enforcement or public safety agencies as deemed appropriate and necessary.